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DE RUEHLGB #0296/01 0811514  
ZNY CCCCC ZZH  
P 221514Z MAR 07  
FM AMEMBASSY KIGALI  
TO RUEHC/SECSTATE WASHDC PRIORITY 3939  
INFO RUEHJB/AMEMBASSY BUJUMBURA 0036  
RUEHDR/AMEMBASSY DAR ES SALAAM 0850  
RUEHKM/AMEMBASSY KAMPALA 1571  
RUEHKI/AMEMBASSY KINSHASA 0197  
RUEHNR/AMEMBASSY NAIROBI 0822  
RUEHFR/AMEMBASSY PARIS 0218  
RUEHTC/AMEMBASSY THE HAGUE 0155  
RUCNDT/USMISSION USUN NEW YORK 0063

C O N F I D E N T I A L KIGALI 000296

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E.O. 12958: DECL: 10/13/2016  
TAGS: PREL PGOV PHUM RW  
SUBJECT: WAR CRIMES AMBASSADOR VISITS RWANDA

REF: KIGALI 110

Classified By: Ambassador Michael R. Arietti, reason 1.4 (B/D)

¶1. (SBU) Summary. Ambassador at large for War Crimes Issues Clint Williamson visited Rwanda March 10-14, meeting with senior GOR officials, diplomatic missions, ICTR officers, and members of the human rights community. He also visited the Mpanga prison being readied for the potential reception of detainee transfers from ICTR in Arusha. He stressed the importance of enhancing Rwanda's judicial capacity, designed to effect the successful transfer of cases from the ICTR, and help Rwanda meet international standards for future prosecutions. He also proposed the need for a comprehensive judicial capacity-building plan to effect ICTR case transfers. He met general agreement that such a plan should be consistent with the donor community's overall efforts to assist the Rwandan judicial sector. End summary.

¶2. (U) Williamson toured the Dutch-built Mpanga prison March 10, and inspected prison grounds and the designated wing for ICTR prisoner transfers. ICTR prisoners will have separate sleeping, dining and recreational facilities, within the prison facility presently used for genocide suspects and those convicted of genocide crimes. Williamson saw that the exterior of the special wing is finished, but interior construction of individual cells as well as dining, bathing and recreational facilities remain to be constructed (according to the Dutch first secretary, the Dutch government stands ready to finish construction, upon receipt of a budget). Space for approximately 90 prisoners was envisioned. He also paid his respects at several genocide memorial sites.

¶3. (C) March 21, Williamson met with ICTR Prosecutor Hassan Jallow in Ambassador Arietti's office. Jallow expressed satisfaction with GOR-ICTR relations, and their increasingly close cooperation on case transfers. A joint GOR/ICTR team had been constituted to effect those transfers, transfers which could begin as early as summer or fall of 2007. He noted that the GOR intended to accede to the International Convention on Torture, and other remaining human rights conventions. He expressed some concern at the prospect of ICTR suspects being subject to gacaca jurisdiction for similar or unrelated charges after completion of their trials, and said some form of limited immunity would be necessary to avoid this happenstance. Jallow noted that the first cases transferred would likely concern suspects not yet in custody, and that the actual transfer of suspects, to come later, might be as low as three individuals. Perhaps a total

of 20 indicted cases would be transferred, counting those in custody and those still at large.

¶4. (C) On the subject of ICTR indictment of RPA/RDF personnel (i.e. those in the Kagame-led liberation forces who themselves committed war crimes in evicting the genocidal government and stopping the 1994 genocide), the ICTR would make a decision in late spring or early summer of this year. Jallow saw three possibilities: indict and try RPA/RDF personnel, indict and transfer case files to Rwanda, or transfer case files with a recommendation (and perhaps private agreement by the GOR) to prosecute. Any indictment would very likely disrupt ICTR-GOR cooperation, and harm the ICTR's completion strategy (i.e. prosecutions completed by 2008, and appeals by 2010). Indictment would also require Security Council agreement, as the deadline for indictments had passed, Williamson noted. Jallow indicated that the GOR had expressed some willingness to try cases in Rwanda, although misgivings had been expressed, given alleged grumblings within the Rwandan military at the prospect of presently serving officers being tried for past offenses.

¶5. (C) Williamson then met in succession with Prosecutor General Martin Ngoga, Justice Minister Tharcisse Karugarama, and Gacaca Head Domitilla Mukantaganzwa. Williamson emphasized the USG's desire in principle to see the GOR receive ICTR case transfers, but noted the need for a judicial capacity assessment of areas requiring capacity building programs. Ngoga cited pending legislation to abolish the death penalty, and to offer certain procedural guarantees regarding ICTR case transfers. He noted as well the need for donor assistance with judicial sector capacity building, for prosecutors, judges, and defense counsel. He expressed strong interest in a "needs assessment" for ICTR case transfers. He also expressed the GOR's strong interest in seeing ICTR archives transferred to Rwanda after the court closed its operations in Arusha. Minister Karugarama also expressed strong support for a William's suggested "needs assessment," particularly for judges, support personnel, and the defense bar, and in transfer of ICTR archives to Rwanda. On gacaca jurisdiction over ICTR suspects, particularly those subject to additional crimes unrelated to ICTR charges, Karugarama thought that an acceptable compromise could be easily reached (Note: Ngoga thought pending legislation would satisfy the ICTR). Williamson expressed USG concern that this issue be adequately addressed. Karugarama also asked for support for a "Transit Center" for ICTR prisoners to be tried to Kigali (with the Mpanga prison located two hours-plus by road to the south). Gacaca Head Mukantaganzwa spoke on the difficulties of addressing justice and reconciliation, and explained the intent of the gacaca legislation just passed by parliament, which will narrow regular court jurisdiction over genocide suspects and lessen penalties (see reftel for extensive discussion of this legislation).

¶6. (SBU) Williamson told both Ngoga and Karugarama that the USG supported the concept of a "needs assessment" that addressed both Rwandan judicial capacity and the specialized requirements of ICTR case transfers. This assessment, said Williamson, would be an essential first step in both facilitating transfers and building the judicial system for the long-term. He suggested a staged approach, focusing first on the immediate need for transfer capacity, and said he intended to tour European capitals in April and discuss the concept further. Williamson noted the sensitivity of the Rwandans to the location of the ICTR archives, but cautioned that it required a Security Council decision and further discussions. He also conveyed the interest of the USG in helping Rwanda track genocide suspects abroad, particularly those who may be living in the United States. He offered to assist in making contacts with the Justice Department's Office of Special Investigations, which had a mandate to investigate the immigration status of suspected war criminals and "genocidaires" who had entered the U.S.

¶7. (SBU) Williamson then heard from several human rights groups, including Human Rights Watch, Ibuka (a genocide

survivors' organization) the Great Lakes League of Human Rights, and LIPRODOHR the League for the Protection and Promotion of Human Rights in Rwanda. He discussed the prospect for ICTR case transfer, and heard from several of the representatives on the great value in having the leadership of the 1994 genocide "finally face the Rwandan people."

¶18. (C) On March 13, Williamson visited diplomatic missions and aid officers with programs aimed at improving Rwanda's judicial capacity, including meetings with the EU, UK and Belgian ambassadors. Williamson heard consistent support for an ICTR "needs assessment" that dovetailed with Rwanda's judicial sector needs writ large. He noted that the GOR's ability to handle transfers was key to ensuring the successful completion of the ICTR. The British ambassador called this assessment an "excellent idea" and noted his own government's effort to assist the extradition of 4 genocide suspects from the U.K., and said his government might be willing to assist with a suspect "tracking unit." He suggested that the ICTR approach the GOR before any decision on RPA indictments, and call upon it to "do the right thing."

The UK government would be willing to urge the GOR to prosecute RPA crimes, he said, and "lay to rest" the accusation of "victor's justice" reigning in Rwanda. The Belgian ambassador noted Belgium's ongoing prosecution of several genocide cases in Belgium, and said the GOB could possibly receive ICTR case transfers. The EU ambassador described the EU's extensive programs to assist with ICTR transfers, and said the GOR's Justice Sector Working Group was "not very effective," but worth communicating with on priorities and funding levels. Williamson also met with two aid officials funded by the Belgium government who were in the process of establishing the Institute for Legal and Professional Development (ILPD), as well as other programs on improved judicial administration, particularly in the prosecutor's office.

¶19. (SBU) Lastly, Williamson met with the President of the High Court Johnston Busingye, who described his efforts to train his 26 high court judges, and prepare them for possible ICTR cases (Note: his court will try any ICTR transfers, and possibly extraditions from other nations). Busingye noted his intention to use ILPD courses for legal practitioners to assist his judges with in-service training, and said that Rwanda stood ready to accept "senior foreign judges" to assist with adjudication of transferred ICTR cases. He also argued, as other officials had, that ICTR archives should be sent to Rwanda after its closure, as it would assist greatly in the prosecution of remaining genocide cases before Rwandan courts, and in "educating the Rwandan people."

ARIETTI